IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SECOND DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

-

WRIT PETITION NO : 25684 of 1996

Between:

M/s.Parin Ice Factory rep. by its Proprietor Mr.Gulam Hussain, S/o Sri Jaffer Bhai, aged about 58 years, Plot No.66, IDA, Jeedimetla, R.R.District.

..... PETITIONER

AND

1. The A.P.S.E.Board, rep. by its Secretary, Vidyut Soudha, Somajiguda, Hyderabad.

2. The Chief Engineer (Electricity), Metropolitan Zone, A.P.S.E.Board, Mint Compound, Hyderabad-500004.

3. The Superintending Engineer, Assessment Circle, A.P.S.E.Board, Humayunnagar, Hyderabad.

4. The Assistant Divisional Engineer, Electrical, Construction and Operation, A.P.S.E.Board, Jeedimetla, Hyderabad.

5. The Assistant Divisional Engineer, DPE-II, A.P.S.E.Board, Vidyut Soudha, Somajiguda, Hyderabad.

6. The Assistant Accounts Officer, Electricity Revenue Office, A.P.S.E.Board, Jeedimetla, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of Certiorari or other appropriate Writ, order or direction calling for the records relating to and quash the order of the 3rd respondent, Superintending

Engineer, Assessments, A.P.S.E. Board, Hyderabad in order No.SE/A/Spl/Hyd/F.SBD-28/D.No.83/95 dt.30.05.1995 as confirmed by the order of the second respondent, the Chief Engineer, Electricity, Metropolitan Zone, A.P.S.E.Board, Mint Compound, Hyderabad in Lr.No.CE/MZHYD/SMRT/F/PA/D.No.647 dated 24.05.1996.

Counsel for the Petitioner: MR.N.JAYASURYA

Counsel for the Respondents: MR.KANAKAMEDALA RAVINDRA KUMAR

The Court made the following:

ORDER:

Heard the learned counsel for the petitioner and the learned Standing Counsel appearing on behalf of the respondent-Board.

The petitioner, which is an Ice factory, seeks to assail the impugned orders passed by the third respondent dated 30.05.1995 as confirmed in appeal by the second respondent as per orders dated 24.05.1996.

The few facts which are necessary for disposal of the writ petition are that in inspection conducted on 24.08.1993, it was found that the meter was not working in two phases, as a result of which, made an initial assessment on 03.09.1993 assessing the amount at Rs.2,26,600/- which was followed by a show-cause notice on 14.07.1994 and the petitioner has filed its explanation. However, the final assessment was passed on 30.05.1995 assessing the loss sustained by the Board at Rs.2,91,050/- and the appeal filed by the petitioner was also dismissed confirming the same.

It is represented by the learned counsel for the petitioner that during the pendency of these proceedings, initially the petitioner has paid Rs.1,13,300/- and also another sum of Rs.80,000/- in terms of the interim directions granted by this Court.

Though several contentions have been urged across the bar on both

sides which virtually run into the factual side, however, the fact remains that both the authorities have held against the petitioner holding that he is responsible for the defective meter. In view of the same, this Court cannot go into the same and come to a different conclusion.

However, by taking into account the long lapse of time and especially the inspection having been conducted as long back as on 24.08.1993 and the petitioner having paid Rs.1,93,300/-, it would be suffice in the interests of justice that the amount involved is reduced from 2,91,050/- to the extent of the amount which has already been paid, namely, Rs.1,93,300/-.

The writ petition is accordingly allowed in part. No costs.

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02.12.2004

VGB

That Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Thursday, The Second Day of December, Two Thousand and Four.

To

1. The Secretary, A.P.S.E.Board, Vidyut Soudha, Somajiguda, Hyderabad.
2. The Chief Engineer (Electricity), Metropolitan Zone, A.P.S.E.Board, Mint Compound, Hyderabad-500004. (with records)
3. The Superintending Engineer, Assessment Circle, A.P.S.E.Board, Humayunnagar, Hyderabad.
4. The Assistant Divisional Engineer, Electrical, Construction and Operation, A.P.S.E.Board, Jeedimetla, Hyderabad.
5. The Assistant Divisional Engineer, DPE-II, A.P.S.E.Board, Vidyut Soudha, Somajiguda, Hyderabad.
6. The Assistant Accounts Officer, Electricity Revenue Office, A.P.S.E.Board, Jeedimetla, Hyderabad.
7. 2CD copies.